THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.Nos.16643 of 1997 and 17134 of 1997
Dated:28-12-2006
(common order)

W.P.Nos.16643 of 1997

Between:
P.Eashwaraiah Petitioner

And
The District Collector, Karimnagar and two others
Respondents

W.P. 17134 of 1997

Between:

Battu Lakshman Petitioner

And

The District Collector, Karimnagar and two others
Respondents

THE HONOURABLE SRI JUSCE NOOTY RAMAMOHANA RAO

W.P.Nos.16643 of 1997 and 17134 of 1997

COMMON ORDER:

W.P.No.16643 of 1997:

1. Since the issue involved in both these writ petitions is common, they are heard together.

2. The petitioner in W.P.No.16643 of 1997 is said to be a freedom fighter and he also belongs to the backward class community. He asserts that he suffered imprisonment during the freedom struggle. He further asserts that out of an extent of Ac.3-00 of patta land held by him, Ac.2.00 of land was submerged when the Lower Manair Dam was constructed. In these set of circumstances, he has applied for assignment of land in his favour. The application was considered and he was granted patta over an extent of Ac.2.20 guntas situated in Survey No.452, Chintakunta in Karimnagar District. Patta was granted by the Mandal Revenue Officer on 15-09-1992 and he was put in possession of the land. The writ petitioner asserts that he has brought improvements to the land and made it cultivable by his hard work. At that stage, through the proceedings dated 14-03-1997, the Revenue Divisional Officer, Karimnagar, has called for the explanation of the petitioner as to why the assignment patta granted in his favour over the land described supra be not cancelled, as the land in question is Shikam Poramboke land and the same is not converted in to Ayan and that the

District Collector, Karimnagar has not yet passed orders deleting it from the Prohibitory Order Book. The writ petitioner has filed his detailed explanation protesting against the proposed action. The impugned orders have been passed by the Revenue Divisional Officer on 13.05.1997 cancelling the assignment patta granted in favour of the writ petitioner. Since the writ petitioner is a freedom fighter, he has been advised to apply afresh for assignment of any other suitable land. The Revenue Divisional Officer would assert that Shikam Poromboke lands are prohibited for assignment in terms of orders of the State Government contained in their G.O.Ms.No.1406, Revenue Department, dated 25-07-1958. Therefore, the entry in the Prohibitory Order Book prohibiting assignment over the land in question has not been deleted by the District Collector and hence, the grant of assignment over the land in question in favour of the writ petitioner by the then Mandal Revenue Officer was considered as irregular.

W.P.No.17134 of 1997:

3. The writ petitioner in this case has asserted that since he is eligible to be granted a patta, being a landless poor person, considering his application, patta was granted in his favour through the proceedings dated 02.11.1992 over an extent of Ac.0.20 guntas of land situated in Survey No.28, Bommakal village in Karimnagar Mandal. The writ petitioner has also asserted that subsequent to the assignment, the patta mutation was also carried out in the Faisal Patti and that the supplementary sethwar was also issued recording the name of the writ petitioner as pattedar. By raising agricultural loan from the Primary Agricultural Cooperative Society at Karimnagar, the writ petitioner has made tremendous improvements to the land and that he had planted coconut and mango trees therein and brought it into a cultivable standard. The writ petitioner has also asserted that he had spent substantial amount to raise a Zink shed therein for his

residential purpose. Therefore, the proposed action of cancellation of the patta in his favour is resisted by him. This apart, the writ petitioner has specifically asserted that there is no Ayacut under Raikunta tank and in fact, the District Collector through his Letter No. B2/2468/94, dated 04-02-1997 has taken up the matter with the Commissioner of Land Revenue suggesting that the issue be taken up with the Government for securing the orders of the Government for abandoning the irrigation source situated in Survey No.28 of Shikam Poramboke measuring Ac.9.08 guntas. He also solicited orders for conversion of Shikam into Ayan to enable the ultimate allotment of the said land to the Journalists, Teachers Cooperative Housing Society and burial ground for Muslims. Through letter dated 04-02-1997, the District Collector has noted that the Deputy Executive Engineer, Panchayat Raj, Karimnagar, has inspected the land in question and recommended for abandoning the said source inasmuch there is no irrigation work was carried out and there is no Ayacut under this tank any longer. The District Collector has also recommended that the lands in Survey No.28 are hardly at a distance of one kilometer from Karimnagar to Peddapally main road and the tank in question was breached long back and there is no cultivation carried on in the lands. Thus the District Collector, Karimnagar has laid out the detailed scheme for the State Government to consider converting the Shikam land in to Ayan so that necessary deletion can be carried out in the Prohibitory Order Book, which will enable the ultimate assignment of this land in favour of eligible beneficiaries.

4. In the counter affidavit in both the matters, the Revenue Divisional officer would repeat the assertions found in the impugned order namely that the Mandal Revenue Officer, Karimnagar, ought not to have rushed in granting the patta over the lands in question in favour of the respective petitioners before formal orders converting the Shikam land into Ayan are passed by the State Government and

the Prohibitory Order Book entries are ordered to be deleted by the District Collector. Beyond that the factual assertions as to the abandonment of the Raikunta tank longtime back and consequently no irrigation and no cultivation activity being carried on therein is not disputed. It is thus evident that the Revenue Divisional officer had resorted to cancellation of the patta granted in favour of the respective writ petitioners not for any of the reasons such as that the writ petitioners are not eligible for such grant or that the lands in question are required for meeting any other emergent need of the State or that they have breached the conditions of the grant, but the cancellation had proceeded only on the ground that the grant itself is premature.

5. Since the respondents have not disputed that the writ petitioners are otherwise eligible to be granted the assignment over the respective lands in their favour, the only question that calls for consideration is whether the Revenue Divisional officer should have cancelled the patta granted in favour of the writ petitioners at all even before the State Government has taken a decision in the matter one way or the other. The petitioner in W.P.No.16643 of 1997 is admittedly a freedom fighter. It is not in dispute that such men are honoured by recognizing their role and contribution in the freedom movement, by assigning them suitable extents of land. When such men who have been granted the assignment have bonafidely indulged in developing the land and bringing it into cultivable standards, it is hardly appropriate that such assignment should be cancelled on some reason or the other, which is not based upon any public issues of interest. I therefore find it appropriate to direct the State Government to take a decision as to whether the Shikam Poromboke land under the abandoned Raikunta tank should be permitted to be converted in to Ayan and consequently the respective lands can be got deleted from the Prohibitory Order Book by the District Collector, Karimagar or not. If there is no irrigation that is carried on in

the Shikam land and when the tank itself has been breached and abandoned, perhaps no meaningful purpose can be achieved from continuing to treat the land as Shikam land. But, however, that is a matter which the State Government will have to decide. At this stage, I do not propose to express any opinion thereon but leave it to the State Government to take all relevant factors, including the one as was spelt out by the District Collector, Karimnagar, in his Letter No. B2/2468/94, dated 04-02-1997 addressed to the Commissioner of Land Revenue, in to consideration and take an appropriate decision. Based thereon the necessary consequential action can be initiated. Till such time, the State Government takes a decision, the respondents shall not seek to evict the writ petitioners from out of the lands assigned to them. In the event that the State Government takes a decision in the matter, which might be at conflict with the interests of the writ petitioners, an opportunity may be provided to the writ petitioners before orders of eviction can be passed against them. I therefore dispose of both the writ petitions in terms as indicated supra. The writ petitioners are at liberty to supplement their submissions by producing the necessary material before the Government to enable it to arrive at a correct conclusion in the matter.

6. Accordingly, the writ petitions are disposed of. No order as to costs.

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NOOTY RAMAMOHANA RAO,J

28-12-2006

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